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Privacy Act; System of Records: Visa Records, State- 39.

SUMMARY: Notice is hereby given that the Department of State proposes to amend an existing system of records, Visa Records, State-39, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a) and Office of Management and Budget Circular No. A-130, Appendix I.

DATES: This system of records will be effective on December 4, 2012, unless we receive comments that will result in a contrary determination.

ADDRESSES: Any persons interested in commenting on the amended system of records may do so by writing to the Director; Office of Information Programs and Services, A/GIS/IPS; Department of State, SA-2; 515 22nd Street NW; Washington, DC 20522-8001.

FOR FURTHER INFORMATION

CONTACT: Director; Office of Information Programs and Services, A/GIS/IPS; Department of State, SA-2; 515 22nd Street NW; Washington, DC 20522-8001.

SUPPLEMENTARY INFORMATION: The Department of State proposes that the current system retain the name "Visa Records" (60 FR 39469). The Visa Records system will maintain information used to assist the Bureau of Consular Affairs and consular officers in the Department and overseas to adjudicate visas. The system is also utilized for dealing with problems of a legal, enforcement, technical, or procedural nature that may arise in connection with a U.S. visa. This update to the Visa Records System of Records includes revisions to the following sections: Security Classification, System Location, Categories of Individuals, Categories of Records, Routine Uses, Safeguards, Retrievability, Records Access

Procedures, and administrative updates. The following section has been added to the system of records, Visa Records, State-39, to ensure Privacy Act of 1974 compliance: Purpose.

The Department's report was filed with the Office of Management and Budget. The amended system description, "Visa Records, State-39," will read as set forth below.

Joyce A. Barr, Assistant Secretary for Administration, U.S. Department of State

STATE-39

SYSTEM NAME:

Visa Records.

SECURITY CLASSIFICATION:

Classified and Unclassified.

SYSTEM LOCATION:

Visa Office, Department of State, Annex 1, 2401 E Street NW, Washington, DC 20522-0113; Department of State, 2201 C Street NW, Washington, DC 20520-4818; National Visa Center, 32 Rochester Avenue, Portsmouth, NH 03801; Kentucky Consular Center, 3505 N. US Hwy 25 W, Williamsburg, KY 40769; U.S. embassies, consulates general, and consulates (henceforth referred to as the Department of State).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Visa Records may include the following individuals when required by a visa application: U.S. petitioners; and U.S. persons applying for returning residence travel documentation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Visa Records maintains visa applications and related forms; biometric information; photographs; birth, marriage, death and divorce certificates; documents of identity; interview worksheets; biographic information sheets; affidavits of relationship; medical examinations and immunization reports; police records; educational and employment records;

petitions for immigrant status and nonimmigrant status; bank statements; communications between the Visa Office, the National Visa Center, the Kentucky Consular Center, U.S. embassies, U.S. consulates general and U.S. consulates, other U.S. government agencies, international organizations, members of Congress, legal and other representatives of visa applicants, relatives of visa applicants, and other interested parties where such communications are, or may be, relevant to visa adjudication; and internal Department of State correspondence and notes relating to visa adjudication. Visa Records may also contain information collected regarding applicant's or petitioner's U.S. family members; U.S. employers; other U.S. persons referenced by the applicant or petitioner;

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. 1101-1503 (Immigration and Nationality Act of 1952, as amended).

PURPOSE:

The Visa Records system maintains information used to assist the Bureau of Consular Affairs and consular officers in the Department and abroad in adjudicating visas. It is also used in dealing with problems of a legal, enforcement, technical, or procedural nature that may arise in connection with a U.S. visa.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The principal users of this information outside the Department of State may include, when consistent with Section 222(f) of the Immigration and Nationality Act:

A. The Department of Homeland Security for uses within its statutory mission, including to process, approve or deny visa petitions and waivers, as well as for law enforcement, counterterrorism,

transportation and border security, administration of immigrant benefits, critical infrastructure protection, fraud prevention, or employment verification purposes;

- B. Public or private employers seeking to confirm the authenticity of the visa when it is presented as evidence of identity and/or authorization to work in the United States;
- C. The Department of Justice, including the Federal Bureau of Investigation (and its National Crime Information Center), the Terrorist Screening Center, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the U.S. National Central Bureau (Interpol) and the Drug Enforcement Administration, for purposes of law enforcement, criminal prosecution, representation of the U.S. government in civil litigation, fraud prevention, counterterrorism, or border security;
- D. The Department of the Treasury for uses within its statutory mission, including the enforcement of U.S. tax laws, economic sanctions, and counterterrorism;
- E. The National Counterterrorism Center, the Office of the Director of National Intelligence and other U.S. intelligence community (IC) agencies, for uses within their statutory missions, including intelligence, counterintelligence, counterterrorism and other national security interests;
- F. The Department of Defense, for uses within its statutory mission including for purposes of border security, homeland defense, force protection, law enforcement and counterterrorism;
- G. The Department of Labor for uses within its statutory mission including the administration and enforcement of U.S. labor laws;

- H. Congress, for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States;
- I. State, local, and tribal government officials for law enforcement, counter-terrorism, or border security purposes;
- J. Interested persons (such as the visa applicant, the applicant's legal representative or other designated representative) inquiring as to the status of a particular visa case (limited unclassified information may be released when appropriate);
- K. Courts provided the Secretary of State has determined that release is appropriate, and the court has certified it needs such information in the interest of the ends of justice in a case pending before the court;
- L. Foreign governments for purposes relating to the administration or enforcement of the immigration, nationality, and other laws of the United States, or in the Secretary's discretion and on the basis of reciprocity, for the purpose of preventing, investigating, or punishing acts that would constitute a crime in the United States or, pursuant to an agreement with a foreign government, to enable such government to consider whether the record indicates a person would be inadmissible to the United States when it determines whether to deny a visa, grant entry, authorize an immigration benefit, or order removal of such person.

The Department of State periodically publishes in the Federal Register its standard routine uses that apply to all of its Privacy Act systems of records. These notices appear in the form of a Prefatory Statement. These standard routine uses apply to Visa Records, State-39.

STORAGE:

Electronic media and hard copy.

RETRIEVABILITY:

Records may be retrieved through individual data fields including but not limited to: Applicant personal data; biometrics and namecheck data; case data; and visa data.

SAFEGUARDS:

All U.S. Government employees and contractors with authorized access have undergone a thorough background security investigation.

All Department users are given cyber security awareness training which covers the procedures for handling Sensitive but Unclassified information, including personally identifiable information (PII). Annual refresher training is mandatory. In addition, all Foreign Service and Civil Service employees and those Locally Engaged Staff (LES) who handle PII are required to take the Foreign Service Institute distance learning course instructing employees on privacy and security requirements, including the rules of behavior for handling PII and the potential consequences if it is handled improperly. Before being granted access to Visa Records a user must first be granted access to the Department of State computer system. Remote access to the Department of State network from non-Department owned systems is authorized only through a Department-approved access program. Remote access to the network is configured with the Office of Management and Budget Memorandum M-07-16 security requirements, which include but are not limited to two-factor authentication and time out function.

Access to the Department of State, its annexes and posts abroad is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All paper records containing

personal information are maintained in secured file cabinets in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct supervision of the system manager. The system maintains audit trails of access and activity for each user within each function, thereby permitting regular and ad hoc monitoring of computer usage by systems and consular managers.

When it is determined that a user no longer needs access, the user's account is disabled.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be destroyed or retired in accordance with published record disposition schedules of the Department of State and as approved by the National Archives and Records

Administration. More specific information may be obtained by writing to the Director; Office of Information Programs and Services; A/GIS/IPS; SA-2; Department of State; 515 22nd Street NW; Washington, DC 20522-8100.

SYSTEM MANAGER AND ADDRESS:

Deputy Assistant Secretary for Visa Services, Room 6811, Department of State, 2201 C Street, NW, Washington, DC 20520-4818; Director, National Visa Center, 32 Rochester Avenue, Portsmouth, NH 63801; Director, Kentucky Consular Center, 3505 N. US Hwy 25 W, Williamsburg, KY 40769. At specific locations abroad the on-site manager is the consular officer responsible for visa processing.

NOTIFICATION PROCEDURES:

Individuals who have reason to believe that the Department of State might have visa records pertaining to them may write to the Director; Office of Information Programs and Services; A/GIS/IPS; SA-2; Department of State; 515 22nd Street NW; Washington, DC 20522-8100. The individual must specify that he or she wishes Visa Records

for his/her application or petition to be checked. At a minimum, the individual should include: name; date and place of birth; current mailing address and zip code; signature; a brief description of the circumstances that caused the creation of the record (including the city and/or country and the approximate dates), which give the individual cause to believe that the Department of State has records pertaining to him or her.

RECORD ACCESS PROCEDURES

Individuals who wish to gain access to or amend records pertaining to themselves may write to the Director, Office of Information Programs and Services (address above). However, in general, visa records are confidential and may not be released under section 222(f) of the Immigration and Nationality Act, except that, the Department of State may consider requests for records that originated with, or were sent to, a requesting visa applicant or someone acting on such applicant's behalf to be releasable thereto.

CONTESTING RECORD PROCEDURES:

(See above).

RECORD SOURCE CATEGORIES:

These records contain information that is primarily obtained from the individual who is the subject of the records; attorneys/agents representing these individuals; relatives; sponsors; petitioners; members of Congress; U.S. Government agencies; foreign government agencies, international organizations; local sources at posts; and anyone else with information that is, or may be, relevant to a U.S. visa application.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(1), (k)(2), and (k)(3), records contained within this system of records are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and

(f). See Department of State Rules published in the Federal Register, under 22 CFR 171.36.